

Remarks

Claims 1-8 and 10-23 remain pending in this application after entry of this paper. Claims 11-23 stand withdrawn from consideration. Original claims 1-10 were rejected.

Regarding the drawings, the Examiner had objected to the drawings. Applicants enclosed a proposed drawing correction in the original reply (received June 5, 2002 by the PTO) that included a new informal drawing sheet illustrating a proposed new Figure 10. If the Examiner approves, applicant will prepare and submit a new formal drawing sheet for Figure 10, and will amend the specification to reference the new Figure 10.

Regarding the rejection of claims 1-8 and 10 under 35 U.S.C. § 101, applicants have amended claims 1-8 and 10 and believe that the claims are directed to statutory subject matter. Specifically, independent claim 1 now incorporates the subject matter of original claim 9, and claims 1-8 and 10 as further amended by this paper are now directed to a method.

Regarding the rejection of claims 1-10 under 35 U.S.C. § 112, first paragraph, applicants believe that the specification is enabling. Specifically, the Examiner states that the specification fails to disclose in an adequately enabling manner how a trend could possibly be established and fails to disclose in an adequately enabling manner how the consumed items will be recognized. Although the Examiner has stated what information is missing from the specification, applicants maintain that the Examiner has failed to support a prima facie case of lack of enablement. The Examiner must specifically identify what information is missing and why one skilled in the art could not supply the information without undue experimentation. Specifically, this burden is on the Examiner under the enablement requirement. M.P.E.P. 2164.04. Factors to be considered when determining whether there is sufficient evidence to support a determination that a disclosure does not satisfy the enablement requirement are discussed in M.P.E.P. 2164.01(a). The Examiner has failed to discuss any of these factors, and as such, has failed to support a prima facie case of lack of enablement. Applicants maintain that the specification is enabling, and if any information is missing from

the specification, one skilled in the art could indeed supply any missing information without undue experimentation.

Nevertheless, in order to further prosecution in this case, applicants have amended claim 1 (in the original reply received June 5, 2002 by the PTO) to recite receiving a series of shopping lists and basing the shopping list trend on the series of shopping lists. The further amendments made by this paper direct the claims to a method while retaining the features added by the amendment in the original reply.

Regarding the claim rejections under 35 U.S.C. § 112, second paragraph, applicants believe that the originally filed claims are definite and point out that the term “smart” was used to specify the list generated with the control logic as opposed to the various other lists recited in various claims similar to the way that terms like “first” and “second” are used in claims distinguished among various elements. Nevertheless, applicants have amended the claims to recite “output list” as opposed to “smart list” and believe that this term is clearly definite. Regarding the Examiner’s statement about claim 10, applicants have amended claim 10 in the original reply as suggested by the Examiner.

The Examiner also rejected claims 1-10 under 35 U.S.C. § 102(b) as being anticipated by Green, and under 35 U.S.C. § 102(e) as being anticipated by each of Kenney and Petrovich. Applicants disagree and believe that claims 1-10 are not anticipated by the prior art, and further, are not obvious over the prior art relied upon by the Examiner.

Independent claim 1 recites a method for automating the management of an inventory of consumer items at a consumer location using a programmed device accepting input data and executing instructions for automating inventory management. The method comprises receiving a series of shopping lists. Each shopping list includes at least one item. The method further comprises establishing a shopping list trend based on the series of shopping lists, and generating an output list. The output list is generated in accordance with the shopping list trend such that the output list is predictive of a next shopping list.

In contrast, Green describes a remote ordering system. Green does not describe or suggest establishing a shopping list trend and generating an output list in accordance with the shopping list trend in combination with the other limitations recited by independent claim 1. Green only discusses custom reference lists (col. 3, ll. 51-58). The custom reference lists discussed in Green appear to be fixed customizable lists that are not generated in accordance with an established shopping list trend as recited by independent claim 1.

Kenney describes an interactive electronic shopping system and method. Kenney does describe a virtual shopping facility. However, Kenney does not describe or suggest the programmed device defined by claim 1. Petrovich describes a personal shopping system portable terminal. However, Petrovich does not describe or suggest the programmed device defined by claim 1.

Specifically, the Examiner, for Green, Kenney, and Petrovich, has failed to specifically point out in any one of these references, each recited structure and structure for performing each recited function as recited by claim 1.

Applicants maintain that these references fail to describe or suggest the claimed invention. Green is a remote ordering system, Kenney is an interactive shopping system, and Petrovich is a personal shopping system portable terminal, but none of these describe or suggest the claimed invention.

Claims 2-10 are dependent claims and are believed to be patentable for their dependency. In addition, the Examiner has failed to specifically point out any teaching of the recited limitations in these dependent claims. Applicants respectfully request that the Examiner

withdraw all rejections, accept the proposed drawing correction, and issue a notice of allowability in this case.

Respectfully submitted,

J. Clarke Stevens et al.

By Jeremy J. Curcuri
Jeremy J. Curcuri
Reg. No. 42,454
Attorney for Applicants

Date: September 23, 2002

BROOKS & KUSHMAN P.C.
1000 Town Center, 22nd Floor
Southfield, MI 48075
Phone: 248-358-4400
Fax: 248-358-3351

Attachment

VERSION WITH MARKINGS TO SHOW CHANGES MADE

Please replace claims 1-10 as shown below.

1. (Twice Amended) A [programmed device] method for automating the management of an inventory of consumer items at a consumer location[, the] using a programmed device accepting input data and executing instructions for automating inventory management, the [programmed device] method comprising:

[instructions for] receiving a series of shopping lists, each shopping list including at least one item;

[instructions for] establishing a shopping list trend based on the series of shopping lists; [and]

[instructions for] generating an output list in accordance with the shopping list trend such that the output list is predictive of a next shopping list[.];

receiving a plurality of item price lists from a corresponding plurality of shopping locations; and

recommending a shopping location based on the plurality of item price lists and the output list.

2. (Twice Amended) The [programmed device] method of claim 1 wherein [the instructions for] receiving the at least one shopping list further [comprise] comprises:

[instructions for] determining a shopping list of a shopping trip;

[instructions for] storing information indicative of the shopping list on a data storage medium; and

[instructions for,] thereafter, retrieving the information from the data storage medium.

3. (Twice Amended) The [programmed device] method of claim 1 wherein [the instructions for] receiving the at least one shopping list further [comprise] comprises:

[instructions for] determining a shopping list of a shopping trip;

[instructions for] sending information indicative of the shopping list over a network; and

[instructions for] receiving the information from the network.

4. (Twice Amended) The [programmed device] method of claim 1 further comprising:

[instructions for] receiving at least one consumed item list including at least one item that has been consumed, wherein the shopping list trend is further based on the at least one consumed item list.

5. (Amended) The [programmed device] method of claim 4 wherein [the instructions for] receiving the at least one consumed item list further [comprise] comprises:

[instructions for] identifying an item upon consumption thereof, the item having a tag and the item being identified by recognizing the tag.

6. (Twice Amended) The [programmed device] method of claim 5 wherein the tag is a bar code and the tag is recognized by scanning the bar code.

7. (Twice Amended) The [programmed device] method of claim 4 wherein [the instructions for] receiving the at least one consumed item list further [comprise] comprises:
[instructions for] identifying an item upon consumption thereof by recognizing the item with a camera.

8. (Twice Amended) The [programmed device] method of claim 1 further comprising:
[instructions for] comparing the output list with the next shopping list; and
[instructions for] modifying the shopping list trend based on the comparison.

10. (Twice Amended) The [programmed device] method of claim 1 wherein [the instructions for] generating the output list further [comprise] comprises:
[instructions for] receiving an item list for a recipe; and
[instructions for] generating the smart list further based on the item list for the recipe.